

UNITED STATES OF AMERICA BEFORE
THE NATIONAL LABOR RELATIONS BOARD

In the matter of

United Government Security Officers
of America International and its Local
129,

Respondents,

and

Joseph Anthony Farrell, an
Individual,

Charging Party,

and

David Wehrer, an Individual,

Charging Party

Case No. 04-CB-192246
04-CB-208578
04-CB-207347

**EXCEPTIONS TO THE DECISION OF THE ADMINISTRATIVE LAW JUDGE
ON BEHALF OF THE UNITED GOVERNMENT SECURITY OFFICERS OF
AMERICA AND ITS LOCAL 129**

Pursuant to 29 C.F.R. § 102.46(a), United Government Security Officers of America and Its Local 129 (“Respondents”) file the following exceptions to the Decision and Order of Chief Administrative Law Judge Robert A. Giannasi:

1. Respondents except to the Judge’s failure to find that the allegation that Respondents violated Section 8(b)(1)(A) of the Act by violating their duty of fair representation in the failure to restore Joseph Farrell’s past seniority was untimely (ALJ Decision, 22: n. 17) and the Judge’s finding that Respondents failed to raise a timeliness defense prior their filing of their post-hearing brief (ALJ Decision, 22: n. 17).

2. Respondents except to the Judge's finding that Respondents violated Section 8(b)(1)(A) of the Act by violating their duty of fair representation in the failure to restore Farrell's past seniority for arbitrary and discriminatory reasons, including Farrell's internal union activities and disagreements with Respondents (ALJ Decision, 18: 1-2; 20: 25-28).

3. Respondents except to the Judge's finding that Respondents did not act based upon a reasonable interpretation of the collective bargaining agreement with respect to Farrell's seniority (ALJ Decision, 18: 35-41; 19: 1-3).

4. Respondents except to the Judge's failure to credit Jeffrey Miller's testimony regarding Respondents' application of the collective bargaining agreement to Farrell's past seniority and the Judge's finding that Miller's testimony on that point was unreliable (ALJ Decision, 11: 35-42).

5. Respondents except to the Judge's failure to credit Miller's testimony that his treatment of Robert Reuther's seniority constituted a mistake (ALJ Decision, 12: 2-4; 19: 29-33).

6. Respondents except to the Judge's finding that Miller told Frank Tunis, Farrell's personal attorney, that Farrell's employment had been previously terminated for cause (ALJ Decision, 11: 4-7).

7. Respondents expect to the Judge's finding that Farrell was not permanently transferred out of the bargaining unit in January 2015 (ALJ Decision, 19: 13-14; 19: n. 14).

8. Respondents except to the Judge's finding that Farrell was not considered terminated by the Employer (ALJ Decision, 6: 35-39).

9. Respondents except to the Judge's finding that Farrell's continued employment was not affected by his failure to take an annual physical in November 2014 and that Farrell was excused from taking the annual physical. (ALJ Decision, 7: 1-2; 20: 13-17).

10. Respondents except to the Judge's finding that it took almost a year after the settlement of Farrell's grievance in September 2015 for Farrell to obtain a medical clearance to return to work and for a position to become available (ALJ Decision, 8: 36-37).

11. Respondents except to the Judge's finding that animosity concerning Farrell's involvement in an alleged time fraud issue carried over to the dispute regarding Farrell's seniority (ALJ Decision, 3: 35).

12. Respondents except to the Judge's finding that Reuther was an integral part of the Respondent's decision-making process with respect to denying Farrell's past seniority (ALJ Decision, 20: 34-36).

Respectfully submitted,

On behalf of the United Government
Security Officers of America International
and its Local 129,

By its attorneys,

/s/ Alan J. McDonald

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